

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. **Criminal Appeal No.358-SB of 1998**

Date of decision : 28.4.2008

Sukhdev Singh and othersAppellants

Versus

State of PunjabRespondent

2. **Criminal Appeal No.382-SB of 1998**

Darshan Singh and othersAppellants

Versus

State of PunjabRespondent

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CORAM: HON'BLE MR.JUSTICE UMA NATH SINGH.

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Present: None for the appellants.

Mr.Manoj Bajaj, Deputy Advocate General, Punjab.

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UMA NATH SINGH, J.

This judgment shall also dispose of the connected cross Criminal Appeal No.382-SB of 1998, filed by one Darshan Singh and Avtar Singh, members of complainant party, against their conviction and sentences recorded in Sessions Case No.13 of May 8, 1992, vide judgment dated 20.4.1998, under Sections 325/324/323 read with Section 34 IPC, on the basis of statement of Charanjit Singh recorded by ASI Bakhshish Singh (PW5), in respect of injuries suffered by him.

As regards Criminal Appeal No.358-SB of 1998, it is directed against the judgment dated 20.4.1998, passed by learned

Additional Sessions Judge, Ludhiana, in Sessions Case No.12 of May 8, 1992, holding all the accused-appellants, namely Sukhdev Singh, Jarnail Singh, Charanjit Singh, Surjit Singh, and Tara Singh, guilty of offences under Sections 148/149/307/ 325/324/323/342 IPC, and sentencing them as under:-

| Name of the Accused | Convicted under Section | Sentence Imposed. |
|----------------------------|-----------------------------------|--|
| Sukhdev Singh | 148 IPC | RI for one year |
| -do- | 307 IPC | RI for four years with a fine of Rs. 1000/-; in default of payment of fine, to undergo further RI for six months. |
| -do- | 325 IPC read with Section 149 IPC | RI for one year |
| -do- | 324 IPC read with Section 149 IPC | RI for one year |
| -do- | 323 IPC read with Section 149 IPC | RI for six months |
| -do- | 342 IPC | RI for six months |
| Jarnail Singh | 148 IPC | RI for one year |
| -do- | 307 IPC read with Section 149 IPC | RI for four years with a fine of Rs. 500/-; in default of payment of fine, to undergo further RI for three months. |
| -do- | 324 IPC read with Section 149 IPC | RI for one year |
| -do- | 325 IPC read with Section 149 IPC | RI for one year |

| Name of the Accused | Convicted under Section | Sentence Imposed. |
|----------------------------|-----------------------------------|--|
| -do- | 323 IPC read with Section 149 IPC | RI for six months |
| -do- | 342 IPC | RI for six months |
| Charanjit Singh | 148 IPC | RI for one year |
| -do- | 307 IPC read with Section 149 IPC | RI for four years with a fine of Rs. 500/-; in default of payment of fine, to undergo further RI for three months. |
| -do- | 325 IPC read with Section 149 IPC | RI for one year |
| -do- | 324 IPC | RI for one year |
| -do- | 323 IPC read with Section 149 IPC | RI for six months |
| -do- | 342 IPC | RI for six months |
| Surjit Singh | 148 IPC | RI for one year |
| -do- | 307 IPC read with Section 149 IPC | RI for four years with a fine of Rs. 500/-; in default of payment of fine, to undergo further RI for three months. |
| -do- | 325 IPC read with Section 149 IPC | RI for one year |
| -do- | 324 IPC read with Section 149 IPC | RI for one year |
| -do- | 323 IPC read with Section 149 IPC | RI for six months |

| Name of the Accused | Convicted under Section | Sentence Imposed. |
|----------------------------|-----------------------------------|--|
| -do- | 342 IPC | RI for six months |
| Tara Singh | 148 IPC | RI for one year |
| -do- | 307 IPC read with Section 149 IPC | RI for four years with a fine of Rs. 500/-; in default of payment of fine, to undergo further RI for three months. |
| -do- | 325 IPC | RI for one year |
| -do- | 325 IPC read with Section 149 IPC | RI for one year |
| -do- | 323 IPC read with Section 149 IPC | RI for six months |
| -do- | 342 IPC | RI for six months |

All the substantive jail sentences were directed to run concurrently.

It appears that one of the accused persons, namely, Mewa Singh died during the pendency of trial.

To clarify the position further, in Criminal Appeal No.382-SB of 1998, the accused-appellants Darshan Singh and Avtar Singh, members of the complainant side, were sentenced as:

| Name of the Accused | Convicted under Section | Sentence Imposed. |
|----------------------------|--------------------------------|---|
| Darshan Singh | 325 IPC | RI for two years with a fine of Rs. 500/-; in default of payment of fine, to undergo further RI for two months. |

| Name of the Accused | Convicted under Section | Sentence Imposed. |
|----------------------------|--------------------------------|--|
| -do- | 324/34 IPC | RI for one year |
| -do- | 323/34 IPC | RI for six months |
| Avtar Singh | 325/34 IPC | RI for two years with a fine of Rs. 250/-; in default of payment of fine, to undergo further RI for one month. |
| -do- | 324/34 IPC | RI for one year |
| -do- | 323 IPC | RI for six months |

All the substantive jail sentences were directed to run concurrently.

Further, one of the accused-appellants, members of complainant side, namely Gian Singh, died during the pendency of trial.

Material facts of prosecution case, relevant for disposal of these two appeals, are that complainant Darshan Singh (appellant in cross appeal) was working in Grewal Factory, Hari Nagar, Street No.7, Ludhiana, on 4.10.1991, the date of incident. On that day, in the night, while coming to his village after duty hours, he passed through the shop of accused-appellant Tara Singh at about 7.45 p.m. Accused-appellant Jarnail Singh caught hold of his bicycle and scolded him saying that he was a mad man. Thereafter, Jarnail Singh caught hold of him by hairs, and in the meantime, other co-accused appellants, Tara Singh with Gandasa, Mewa Singh (since dead) with Takua, Charanjit Singh with knife and Surjit Singh and Sukhdev

Singh with Dangs, reached there. Soon thereafter, accused-appellants mounted assaults on Darshan Singh. Accused Mewa Singh dealt a takua blow on his forehead followed by Gandasa blow caused by accused-appellant Tara Singh on head. Accused-appellant Charanjit Singh gave knife blow on his left and right arms, whereas, other accused, namely Sukhdev Singh dealt a dang blow on head, feet and left knee. Complainant Darshan Singh raised alarm. However, no one came to his rescue. Thereafter, Darshan Singh was physically lifted and taken in the compound of accused persons, where he was tied with a tree. In the meantime, police arrived at the scene of occurrence and rescued him from the clutches of accused persons. He was then taken to hospital by one Surjit Singh. During the course of scuffle, a member of accused side, namely, Charanjit Singh also received some injuries at the hands of members of complainant side. Therefore, on his statement, a cross case, as aforesaid, was registered. On completion of investigation, a challan was laid against four accused persons, whereas accused Tara Singh and Surjit Singh having been found innocent during investigation, were placed in column No.2 by the police. As one of the charges was under Section 307 IPC, the accused persons were tried by the Court of Sessions. During trial, accused-Tara Singh and Surjit Singh (appellants herein), were also summoned. Thus, in total, six accused persons were tried upon in S.C.No.12 of May 8, 1992 (Criminal Appeal No.358-SB of 1998). All the accused-appellants pleaded not guilty to the charges and claimed trial. One of them, accused Mewa Singh died during pendency of trial itself.

In order to bring home the charges against accused persons, prosecution examined Dr.Daljit Singh Kochhar (PW1), complainant

Darshan Singh (PW2), Eye witness Avtar Singh (PW3), Radiologist Dr. Anupam Watish (PW4), Investigating Officer, ASI Bakhshish Singh (PW5) and Patwari Ikel Singh (PW6).

In their statements under Section 313 Cr.P.C., the accused-persons pleaded innocence and submitted that complainant Darshan Singh, Avtar Singh (accused-appellants in cross-appeal) and Gian Singh (died during pendency of trial), caused injuries to Charanjit Singh, Jarnail Singh and Lajwanti. In order to save themselves from criminal charges, these persons made a false case against the appellants. From the accused side, Ranjit Singh from Aviation Club, Ludhiana was examined to prove that on the date of occurrence, accused Surjit Singh was on duty in the club. Dr.U.S. Sooch (DW2) was produced to prove the injuries caused to Lajwanti wife of Charanjit Singh. DW2 found adhesive plaster applied on the front and upper part of left side of her chest. Injured Lajwanti herself appeared as DW3 and stated that she received injuries from Avtar Singh, Darshan Singh and Gian Singh, during the occurrence.

Learned trial Court, after placing reliance on the evidence of prosecution witnesses, as also the medical reports, recorded the conviction and sentence of accused-appellants, as aforesaid.

Similarly, in the cross case, Criminal Appeal No.382-SB of 1998, accused-appellants Darshan Singh, Gian Singh and Avtar Singh were charged under Sections 324/325/323 read with Section 34 IPC. They also pleaded not guilty and claimed trial.

In order to prove the charges, prosecution examined Dr.Daljit Singh Kochhar (PW1). He noticed three injuries on the

person of Charanjit Singh and one on the person of Jarnail Singh. Injured Charanjit Singh and Jarnail Singh were also examined as PW2 & PW3. Radiologist Dr.Anupam Watish was produced as PW4 and Investigation Officer, ASI Bakhshish Singh as PW5.

In their statements under Section 313 Cr.P.C., all the accused persons pleaded innocence and false implication. They stated that Darshan Singh was caused injuries by the complainant side itself on 4.10.1991 at about 7.45 P.M., and in order to save their skin from criminal liability, the complainant side falsely implicated the accused-appellants.

On appreciation of evidence, learned trial Court found the injuries present on the person of Charanjit Singh and Jarnail Singh, to be grievous in nature. Learned trial Court also noticed the property dispute between the parties as the motive for this incident. Accordingly, accused Darshan Singh and Avtar Singh were convicted under Sections 324/34 IPC for causing hurt with Kulhari to Charanjit Singh. Accused Darshan Singh was also held guilty under Section 325 for causing grievous hurt to Charanjit Singh and Jarnail Singh, whereas, accused Avtar Singh was held guilty of the same offence under Sections 325/34 IPC. They were also held guilty under Section 323 read with Section 34 IPC for causing injuries to Charanjit Singh.

No one appeared, during the course of hearing, on behalf of appellants. These are old appeals of 1998 and learned counsel for appellants were aware that these appeals were to be listed for final hearing. Moreover, during the pendency of these appeals, learned counsel for appellants also filed an application for compounding the offences. The application for compromise was sent to learned Chief

Judicial Magistrate, Ludhiana, for verification of contents, who, after recording the statements of parties, found the contents to be true. All the offences in cross appeals are compoundable in nature except the one under Section 307 IPC in Criminal Appeal No.358-SB of 1998.

We have noticed the evidence of Dr.Daljit Singh Kochhar (PW1), in respect of the injuries on the person of complainant-Darshan Singh. These injuries are reproduced as under:-

- “1. Lacerated wound 1” x 3/4” bone deep on right side of fore-head 2” above eye brow. Fresh bleeding was present, X-ray was advised and was referred to Surgical Specialist for opinion.
2. Lacerated wound 1-1/2” X 3/4” bone deep on the right fronto parietal region, fresh bleeding was present, X-ray was advised and was referred to Surgical specialist for opinion.
3. Lacerated wound 1-1/4” X 1/2” bone deep in the central frontal region, fresh bleeding was present. X-ray was advised and was referred to Surgical Specialist for opinion.
4. Lacerated wound 2” X 3/4” bone deep on the left side of fore-head 1” above eye brow and extending upward, fresh bleeding was present. X-ray was advised and referred to Surgical Specialist for opinion.

5. Lacerated wound 1/4" X 1/5" bone deep on the bridge of nose. There was defused swelling around it. Area was tender and there was slight bleeding from the left nostral and X-ray was advised.
6. Lacerated wound 3/4" X 1/2" quarry deep on the dorsal aspect of left fore-arm in its upper third, area around was swollen and tender. Fresh bleeding was present and X-ray was advised.
7. Diffused swelling in an area 4" X 3" on the lower part of left fore-arm and wrist and extending to hand. X-ray was advised.
8. Punctured wound 1/4" X 1/5" quarry deep on right upper arm on its lateral and lower one third, corresponding hole was present in the shirt and was fresh. X-ray was advised.
9. Diffused swelling 2" x 1" on and around right elbow. X-ray was advised".

Looking to the nature of injuries, though 9 in number, and the background that despite enough opportunities to cause fatal injuries, no such injury was caused on the person of Darshan Singh, and further that in the hospital, he was in a position to give statement to the police, I do not find such intention on the part of accused-appellants as to commit murder. Hence, I convert the offence under Section 307 IPC into one under Section 326 IPC. As such, all the offences in cross-appeals of both sides would be compoundable in

nature. Moreover, parties to both the cross-appeals are said to be the senior citizens with no other criminal background.

In view of all the aforesaid, I accept the application for composition of offences between both the parties in cross appeals and set-aside the impugned judgments. Thus, appellants in Criminal Appeal No.358-SB of 1998 and Criminal Appeal No.382-SB of 1998 are acquitted of charges. Accordingly, both the Criminal Appeals are allowed and disposed of.

April 28, 2008.
**mohinder*

[UMA NATH SINGH]
JUDGE